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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: David P. Soltanpour, et al.

TITLE: IMPLANTABLE PUMP APPARATUSES

SERIAL NUMBER: 10/733,090

FILED: 12/12/03

Office of Petitions  
Office of the Assistant  
Commissioner for Patents  
**Box DAC**  
Hon. Commissioner of Patents  
and Trademarks  
P.O. Box 1450  
Alexandria, VA 22313

Sir:

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT PURSUANT TO**  
**37 C.F.R. §§ 1.181**

**STATEMENT OF THE FACTS**

Attorney for applicant received a Notice to File Missing Parts dated 3/18/2004. The applicant responded to the Notice by filing a complete response on 6/18/2004, with a one month extension of time and the appropriate fee. Attorney then received an identical Notice dated 12/8/2004 but did not respond believing the Notice had been previously complied with.

However, due to a clerical error, while the applicant's name and docket number were correctly indicated on the documents filed, the serial number and title of the invention were incorrect. An original of the postcard filed with the documents, showing the incorrect information are attached. It can be seen that the documents filed correspond exactly to the requirements of the Notice.

Applicant has now received a Notice of Abandonment, which has prompted this petition.

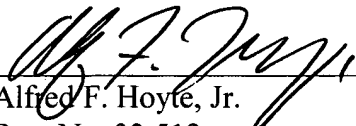
**ANALYSIS**

Applicant has made a good faith attempt to comply with the Notice, as evidenced by the attached postcard. Further, the Office has procedures for correlating unmatched filed documents,

and it would appear that this has not yet been done. In order to remedy the situation, applicant is now filing, in timely fashion, corrected documents.

#### REQUEST FOR RELIEF

In accordance with the above, applicant hereby requests that the holding of abandonment be withdrawn.

  
\_\_\_\_\_  
Alfred F. Hoyte, Jr.  
Reg. No. 33,512  
Tel. No. 202-737-7590

#### CERTIFICATE OF MAILING

I hereby certify that this correspondence will be deposited with the United States Postal Service by First Class Mail, postage prepaid, in an envelope addressed "Commissioner of Patents and Trademarks, P.O. Box 1450, Alexandria, VA 22313" on the date below.

Date: 10/17/2005

  
\_\_\_\_\_



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/733,090	12/12/2003	Mohsen Shahinpoor	SOLCIP3.UPA

**CONFIRMATION NO. 9204**  
**ABANDONMENT/TERMINATION**  
**LETTER**

ALFRED HOYTE  
 SUITE 700  
 733 15TH STREET N.W.  
 WASHINGTON, DC 20005

Date Mailed: 08/16/2005

**NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)**

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 12/08/2004.

- No reply was received.

If a complete reply to the notice was previously filed by applicant within the time period set forth in the notice, applicant may request for reconsideration of the holding of abandonment within 2 months from the mailing of this notice of abandonment by filing a petition to withdraw the holding of abandonment under 37 CFR 1.181(a). No petition fee is required. The petition must be accompanied by a true copy of the originally filed reply and the item (s) identified in one of the following:

1. A properly itemized date-stamped postcard receipt (see MPEP § 503);
2. If the originally filed reply included a certificate of mailing or transmission in compliance with 37 CFR 1.8(a), a copy of the certificate of mailing or transmission and a statement in compliance with 37 CFR 1.8(b) (see MPEP §§ 512); or
3. If the reply was filed via Express Mail, a submission satisfying the requirements of 37 CFR 1.10(e) including, for example, a copy of the Express Mail mailing label showing the "date-in" (see MPEP § 513).

Any petition to withdraw the holding of abandonment should be directed to OIPE.

If applicant did not previously file a complete reply within the time period set forth in the notice, applicant may file a petition to revive the application under 37 CFR 1.137.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/61.

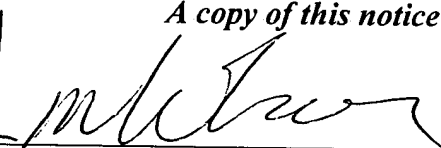
Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37

CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/64.

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (571) 272-3282.

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*A copy of this notice **MUST** be returned with the reply.*

  
Office of Initial Patent Examination (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/733,090	12/12/2003	Mohsen Shahinpoor	SOLCIP3.UPA

ALFRED HOYTE  
 SUITE 700  
 733 15TH STREET N.W.  
 WASHINGTON, DC 20005

CONFIRMATION NO. 9204

## FORMALITIES LETTER



\*OC00000012125335\*

Date Mailed: 03/18/2004

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted*Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.  
*A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.*
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 are required. The drawings submitted are not acceptable because:
  - The drawings must be reasonably free from erasures and must be free from alterations, overwriting, interlineations, folds, and copy marks. See Figure(s) 2.

The following item(s) appear to have been **omitted** from the application:

- Figure(s) 3 described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the

date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h)) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(e)). To avoid processing delays and payment of a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted item(s) and the petition (and petition fee) requesting the later filing date.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b)**. In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabeled drawing figures, is required. A copy of the drawing figures showing the proposed changes in red ink should accompany with any drawing changes. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

#### **SUMMARY OF FEES DUE:**

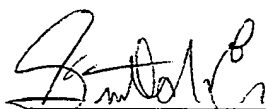
Total additional fee(s) required for this application is **\$65** for a Small Entity

- **\$65** Late oath or declaration Surcharge.

Replies should be mailed to: Mail Stop Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

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*A copy of this notice **MUST** be returned with the reply.*



Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY



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ALFRED HOYTE  
 SUITE 700  
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 WASHINGTON, DC 20005

CONFIRMATION NO. 9204

## FORMALITIES LETTER



\*OC000000014695206\*

Date Mailed: 12/08/2004

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

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- The oath or declaration is missing.  
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- Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 are required. The drawings submitted are not acceptable because:
  - The drawings must be reasonably free from erasures and must be free from alterations, overwriting, interlineations, folds, and copy marks. See Figure(s) 2.

The following item(s) appear to have been **omitted** from the application:

- Figure(s) 3 described in the specification.

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the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h)) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

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213  
Customer Service Center  
Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY



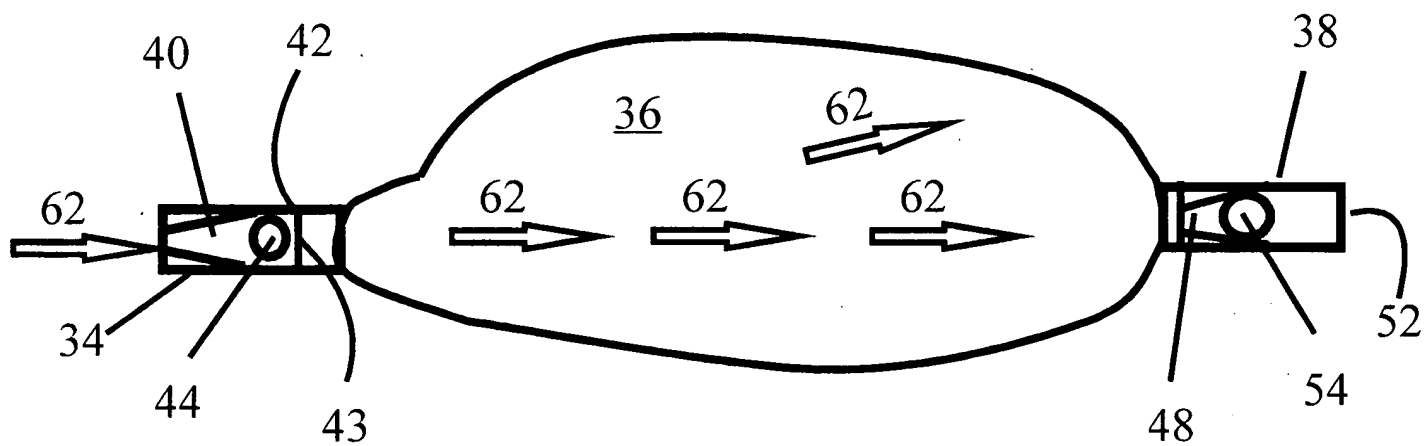
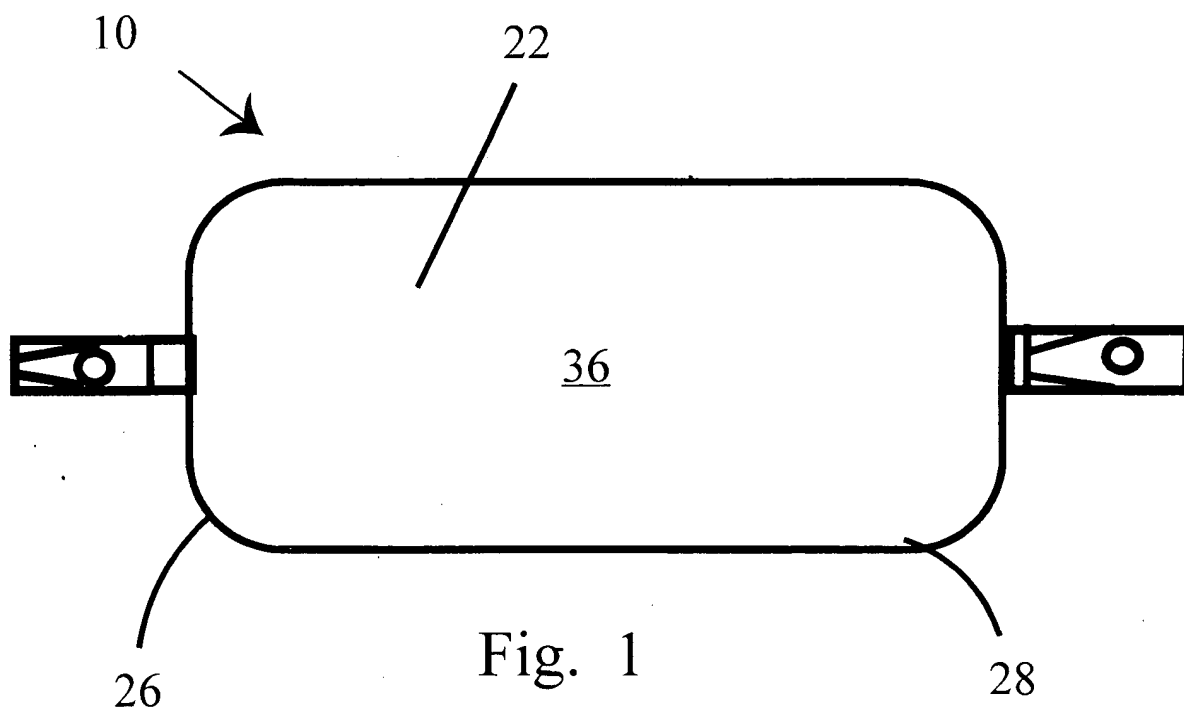


Fig. 2

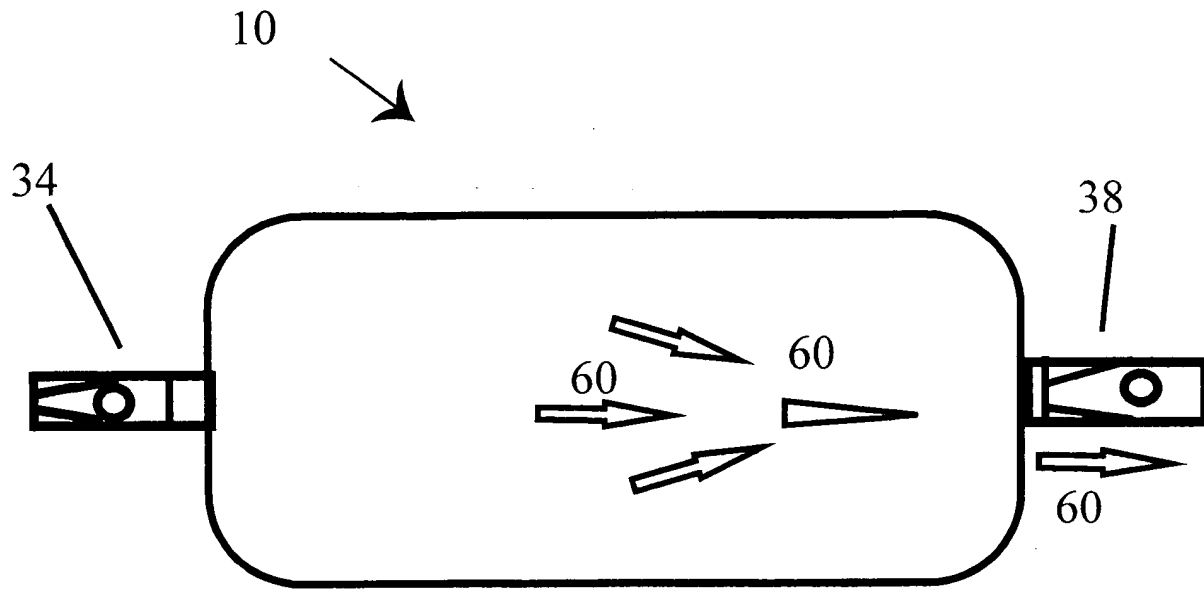


Fig. 4

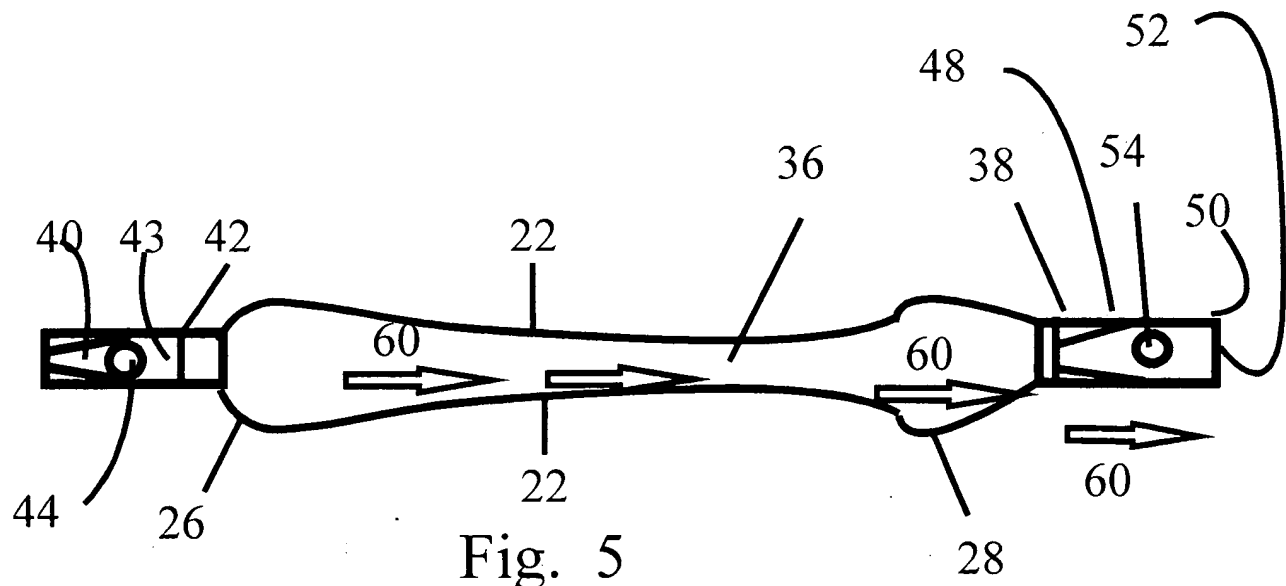
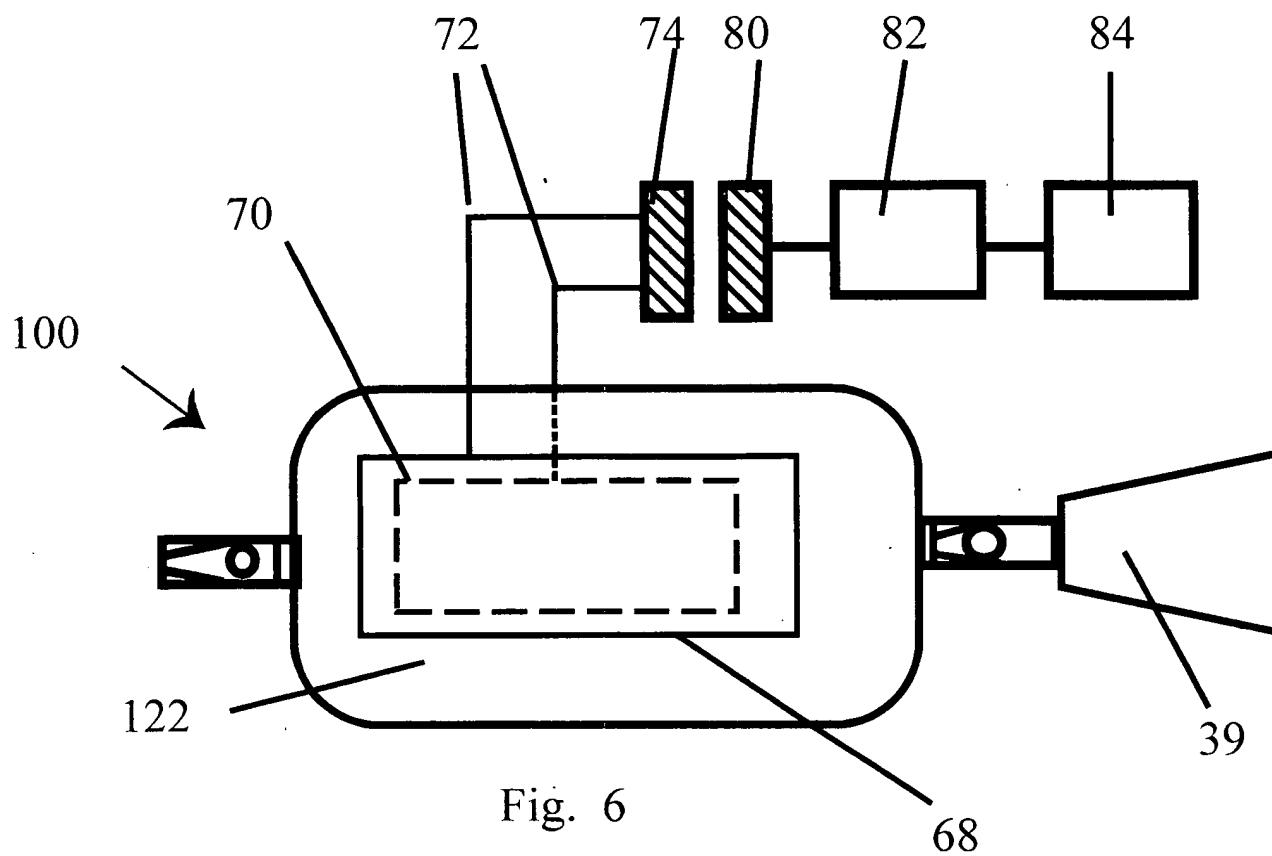


Fig. 5





Attorney Docket No.: SOLCIP3.UPA

### DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter that is claimed and for which a patent is sought on the invention entitled: IMPLANTABLE PUMP APPARATUSSES, Application Serial No. 10/733,090.

I hereby state that I have reviewed and understand that contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information that is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119(a)-(d) or §365(b) of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application or patent or inventor's certificate having a filing dated before that of the application of which priority is claimed:

Country	Application Number	Date of Filing	Priority Claimed Under 35 U.S.C. 119
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I hereby claim the benefit under Title 35, United States Code, § 120 of my United States application(s) listed below and, in so far as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) that occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Number	Date of Filing	Status (patented, pending, abandoned)
09/015,759	1/29/1998	Patented 6,168,175
09/586,962	6/05/2000	Patented 6,589,198
09/841,191	4/25/2001	Pending

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below:

Application Number	Date of Filing
--------------------	----------------

I hereby appoint the following attorney to prosecute this application and transact all business in the Patent and Trademark Office connected therewith: Alfred F. Hoyte, Jr. Please address all correspondence to Alfred F. Hoyte, Esq., 733 15<sup>th</sup> Street, N.W., Washington, D.C. 20005, Telephone No. 202-737-7590.

FULL NAME OF SOLE OR FIRST INVENTOR

INVENTOR'S SIGNATURE

DATE

David P. Soltanpour

X

*D. Soltanpour*

X 6-18-04

CITIZENSHIP

U. S.

RESIDENCE and POST OFFICE ADDRESS

5 Lindsley Dr.

Larchmont, NY 10538

FULL NAME OF SECOND INVENTOR

INVENTOR'S SIGNATURE

DATE

Mohsen Shahinpoor

X

*M. Shahinpoor*

X 06/18/04

CITIZENSHIP

U. S.

RESIDENCE and POST OFFICE ADDRESS

9910 Tanoan Dr. NE.

Albuquerque, NM 87111



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: David P. Soltanpour, et al.  
TITLE: IMPLANTABLE PUMP APPARATUSES  
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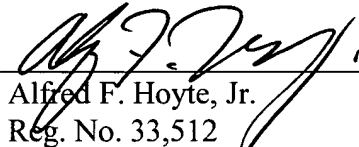
Sir:

**TRANSMITTAL LETTER**

The following are filed herewith:

1. Petition pursuant to 37 CFR 1.181.
2. Copy of signed declaration.
3. Original postcard.
4. Stamped postcard.
5. Copies of Notices.

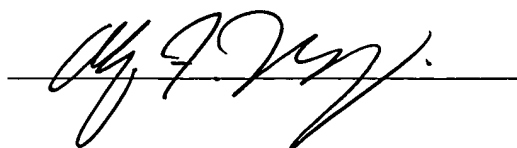
Applicant elects to omit Fig. 3, Preliminary amendment will be filed prior to examination.

  
\_\_\_\_\_  
Alfred F. Hoyte, Jr.  
Reg. No. 33,512  
Tel. No. 202-737-7590

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence will be deposited with the United States Postal Service by First Class Mail, postage prepaid, in an envelope addressed "Commissioner of Patents and Trademarks, P.O. Box 1450, Alexandria, VA 22313" on the date below.

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